

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES,)
)
Plaintiff,)
)
v.) No. 3:09-cv-998
)
KEVIN R. DAVIS, et al.)
)
Defendants.)

STIPULATED JUDGMENT OF PERMANENT INJUNCTION

Plaintiff, the United States, and Defendants, Kevin R. Davis and Johnson's Garage, Inc., stipulate as follows.

1. The United States filed a complaint alleging that Defendants failed to file federal employment (Form 941) and unemployment (Form 940) tax returns, and failed to collect and to pay over federal employment and unemployment taxes.
2. Defendants, without admitting any of the allegations in the complaint except as to jurisdiction, waive the entry of findings of fact and conclusions of law under Fed. R. Civ. P. 52, and consent to the entry of this Stipulated Judgment of Permanent Injunction ("Stipulated Judgment") under Fed. R. Civ. P. 65 and 26 U.S.C. § 7402.
3. Defendants understand that this Stipulated Judgment constitutes the final judgment in this matter, and Defendants waive any and all rights to file an appeal from this judgment.
4. Defendants consent to the entry of this Stipulated Judgment without further notice and agree to be bound by its terms. Defendants further understand and agree

that the Court will retain jurisdiction over this matter for the purpose of implementing and enforcing this injunction, and understand that if they violate this injunction, they may be found in contempt of court and may be sanctioned and/or imprisoned.

Accordingly, in light of the foregoing, the Court hereby ORDERS that:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1340, 1345 and 26 U.S.C. § 7402;
2. Defendants have consented to the entry of this Stipulated Judgment and agree to be bound by its terms;
3. Pursuant to 26 U.S.C. § 7402, Defendants, and their representatives, agents, employees, attorneys, and anyone in active concert or participation with them, are:
 - A. Permanently enjoined from violating 26 U.S.C. §§ 3101, 3102, 3111, 3402, 6011(a), and 6041;
 - B. Required to establish a bank account, as defined pursuant to 26 U.S.C. § 581, designated as "Kevin Davis, Trustee, Special Fund in Trust for the United States under 26 U.S.C. § 7512" within 30 days of the entry of this Stipulated Judgment;
 - C. Required, for a period of five years from the date of the entry of this Stipulated Judgment, to timely make weekly deposits of federal employment taxes, e.g., withheld federal income tax, withheld FICA tax, and Defendants' share of FICA tax, into the bank account described in paragraph B, above. Additionally, Defendants are required, for a period of five years from the date of the entry of this Stipulated Judgment, to make monthly deposits of federal employment taxes in an appropriate

federal depository bank in accordance with the federal deposit regulations if Defendants' quarterly liabilities will exceed \$2,500. Defendants shall make such monthly deposits for employment tax obligations no later than the 15th day of the following month;

D. Required, for a period of five years from the date of the entry of this Stipulated Judgment, to timely make deposits of federal unemployment taxes, e.g. FUTA tax, as they become due in an appropriate federal depository bank in accordance with the federal deposit regulations;

E. Required, for a period of five years from the date of the entry of this Stipulated Judgment, to sign and deliver affidavits in the form attached as Exhibit A to the Revenue Officer at 150 Court Street, Charleston, WV, 25301-2102, or at such other location as the Service may deem appropriate, no later than the 20th day of each month, stating that all required deposits described in paragraphs C and D, above, were timely made;

F. Required, for a period of five years from the date of the entry of this Stipulated Judgment, to timely file with the Internal Revenue Service all employment (Form 941) and unemployment (Form 940) tax returns and pay any balance due on those returns upon filing;

G. Prohibited, for a period of five years from the date of the entry of this Stipulated Judgment, from transferring, disbursing, or assigning any money, property, or assets until the required federal employment and unemployment tax deposits have

been fully made for the given periods, and prohibited from paying other creditors before paying the federal employment and unemployment tax liabilities;

H. Required to file all unfiled and past-due federal employment (Form 941) and unemployment (Form 940) tax returns with the Internal Revenue Service within 30 days of the entry of this Stipulated Judgment. Such returns include the Form 941 returns for the periods ending 3/31/08, 6/30/08, 9/30/08, and 12/21/08 and the Form 940 returns for the years 2007, 2008, and 2009;

I. In addition to keeping current with all newly accruing tax liabilities, required to timely pay the delinquent federal employment and unemployment tax liabilities by paying, on the 15th of each month, at least \$300, until the delinquent balance is satisfied;

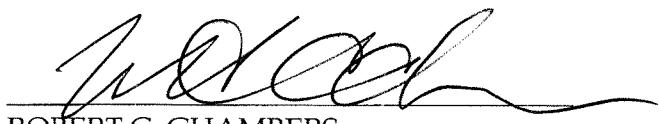
J. Required, for a period of five years from the date of the entry of this Stipulated Judgment, to notify the Internal Revenue Service within 10 business days if they begin operating any new business enterprise;

K. Required to post and keep posted, for a period of five years from the date of the entry of this Stipulated Judgment, in one or more conspicuous places on the business premises where notices to employees are customarily posted, a copy of this Stipulated Judgment.

4. The United States shall be entitled to conduct discovery to monitor Defendants' compliance with the terms of this Stipulated Judgment;

5. This Court shall retain jurisdiction over this matter and Defendants for the purpose of enforcing this Stipulated Judgment.

DATE: 6/3/10



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE

PREPARED AND SUBMITTED BY:



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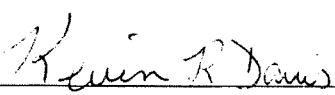
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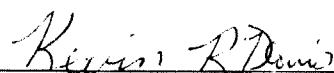
SEEN AND AGREED TO:



KEVIN R. DAVIS

1720 US Highway 60
Culloden, WV 25510

Defendant Pro Se



KEVIN R. DAVIS

d/b/a
Johnson's Garage, Inc.
167 Hedrick Road
Scott Depot, WV 25560

Defendant Pro Se

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FEDERAL EMPLOYMENT TAX DEPOSIT VERIFICATION

Johnson's Garage, Inc. (EIN 55-0783175)

1. For payroll period _____ to _____.
2. Date wages paid to employees: _____.
3. Total gross wages paid: \$_____.
4. Total federal income tax withheld: \$_____.
5. Total Social Security taxes withheld: \$_____ \times 2 = \$_____.
6. Total Medicare taxes withheld: \$_____ \times 2 = \$_____.
7. Total of lines 4, 5, and 6: \$_____.
8. Deposit dated _____ (receipt attached) for \$_____.

I, Kevin Davis, hereby certify under penalty of perjury that the foregoing information is true and accurate.

Date: _____ KEVIN DAVIS

